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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION 3

THE PEOPLE OF THE STATE OF
CALIFORNIA et al.,

Plaintiffs and Respondents,

v.

SUBAR F. MANI,

Defendant and Appellant.

A155621

(San Mateo County
Super. Ct. No. CIV533765)

Subar F. Mani appeals from an order appointing a receiver over his rental property to abate a public nuisance. He contends the order should be reversed but gives no legal analysis supporting his arguments and asserts arguments on appeal that were not presented to the trial court. These arguments are forfeited. The trial court did not abuse its discretion in appointing a receiver, so we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The following evidence is described most favorably to the respondent in accord with the standard for substantial evidence review. (See *SFPP v. Burlington N. & Santa Fe Ry. Co.* (2004) 121 Cal.App.4th 452, 462.)

Mani owns a rental property within the City of San Bruno (the City) that has been in violation of the San Bruno Municipal Codes since 1998. The rental property has an excessive number of units that are not permitted. Mani took ownership of the property in 2013.

In February 2015, the City met with Mani to review the ongoing violations and explained he must immediately begin curing them or the City would seek formal enforcement. Three months later, the City sued Mani for injunctive relief. In August 2016, the parties stipulated to relief. The court ordered a permanent injunction against Mani that listed the current violations at the property, specified the way Mani was to fix them, provided his timeline for doing so, and specified the City's remedies for any breach of the stipulation. The list of remedies included the appointment of a receiver.

The City later moved to hold Mani in contempt of the injunction. Again, Mani stipulated that he was in contempt. In March 2017, the court found Mani in contempt based on his stipulation. Just after the contempt order was entered, Mani sued the City alleging a taking of his property and emotional distress. In December 2017, the court vacated its finding of contempt because there was no evidence that Mani could comply with the injunction. In January 2018, the court entered judgment sustaining the City's demurrer to the complaint Mani had filed alleging a taking and emotional distress and imposed sanctions against him.

In August 2018, after an inspection of the property found Mani had still not addressed the code violations, the City moved for an order appointing a receiver. At the hearing, Mani sought more time to comply but presented no evidence against the City's allegations. The court entered its judgment appointing the receiver the same day, stating, "there have been many opportunities [to comply] and to delay is not a solution." Mani timely appeals.

DISCUSSION

Mani makes six arguments on appeal. We dismiss the first five on the basis they are forfeited. We consider only his abuse of discretion argument on the merits and conclude the trial court's appointment of a receiver was not abuse of discretion.

I. Forfeited Arguments

" 'A judgment or order of the lower court is presumed correct.' " (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, italics omitted.) "The burden of affirmatively demonstrating error is on the appellant. This is a general principle of appellate practice

as well as an ingredient of the constitutional doctrine of reversible error.” (*Fundamental Investment etc. Realty Fund v. Gradow* (1994) 28 Cal.App.4th 966, 971.) An appellant is required to “[s]tate each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority[.]” (Cal. Rules of Court, rule 8.204(a)(1)(B).) “To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error. [Citations.] When a point is asserted without argument and authority for the proposition, ‘it is deemed to be without foundation and requires no discussion by the reviewing court.’ [Citations.] Hence, conclusory claims of error will fail.” (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.)

In addition, “a party is precluded from urging on appeal any point not raised in the trial court. [Citation.] Any other rule would ‘ “ ‘permit a party to play fast and loose with the administration of justice by deliberately standing by without making an objection of which he is aware and thereby permitting the proceedings to go to a conclusion which he may acquiesce in, if favorable, and which he may avoid, if not.’ ” ’ ” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 411-412.)

First, Mani claims the receivership is limited to certain Health and Safety Code violations because the City’s complaint does not explicitly include the San Bruno Municipal Code violations under the receivership remedy. This argument is forfeited because it was not raised in the trial court. Mani also fails to give any legal support for the proposition that the City’s complaint determines which violations are under the jurisdiction of the receiver rather than the order for permanent injunction.

Second, Mani claims the receivership is limited to the units listed in the receivership order, which specifies units 249-257. This argument is forfeited because it was not raised in the trial court. Mani also fails to give any legal support for why the assessor’s parcel number for the property listed in the order does not adequately identify the property as a whole, regardless of the number of units.

Third, Mani argues he should not have to pay permit fees. This argument is forfeited because it was not raised in the trial court, and Mani gives no legal support for

why the permanent injunction would waive these fees simply because a directive to pay them is not expressly included in the text of the injunction.

Fourth, Mani claims the City failed to give him written notice of his violations before seeking a receivership, as required in the permanent injunction. This argument is forfeited because it was not raised in the trial court.

Fifth, Mani argues the declaration from the City Attorney is conclusory and is not evidence that Mani has failed to comply with the injunction. This argument is forfeited because it was not raised in the trial court. Moreover, Mani has never provided any evidence to rebut the City Attorney's declaration.

II. Abuse of Discretion

Finally, Mani argues that the appointment of a receiver is too dramatic a remedy because he remains willing to comply with the permanent injunction. This is, in essence, an abuse of discretion argument. While this argument is forfeited because Mani did not support it with legal analysis, it also fails on the merits.

“We review an order appointing a receiver for abuse of discretion. [Citation.] An abuse of discretion is demonstrated if the court's decision was not supported by substantial evidence or the court applied an improper legal standard or otherwise based its determination on an error of law. [Citation.] ‘As to factual issues, “we determine whether the record provides substantial evidence supporting the trial court's factual findings. [Citation.] Applying the substantial evidence test on appeal, we may not reweigh the evidence, but consider that evidence in the light most favorable to the trial court, indulging in every reasonable inference in favor of the trial court's findings and resolving all conflicts in its favor. [Citation.] . . . We uphold the trial court's findings unless they so lack evidentiary support that they are unreasonable.” ’ ” (*City of Crescent City v. Reddy* (2017) 9 Cal.App.5th 458, 466.)

The trial court's written order appointing a receiver cites as authority Code of Civil Procedure section 564, subdivision (b)(3), which provides as follows: “In superior court a receiver may be appointed by the court in which an action or proceeding is

pending, or by a judge thereof, in the following cases: [¶] . . . [¶] After judgment, to carry the judgment into effect.”

We agree with Mani that a receiver is a drastic remedy. (See *Elson v. Nyhan* (1941) 45 Cal.App.2d 1, 5.) However, the factual and procedural history of this case demonstrates a receiver was warranted. The property in question has been in violation of the San Bruno Municipal Codes for almost 20 years, during at least eight of which Mani has owned it. In early 2015, the City explained at an in-person meeting with Mani that the property was in violation and that he was responsible for correcting the violations. Mani did not comply for nearly four months before the City filed its 2015 complaint and then he stipulated to the permanent injunction in 2016, accepting that his property was in violation and that he must remedy those violations.

In 2017 Mani stipulated to the contempt finding, expressly stating he had still not complied and then filed a separate action against the City for intentional infliction of emotional distress. While the court reversed its finding of contempt because the evidence was unclear as to whether Mani had the ability to comply with the permanent injunction, it granted the City’s demurrer against Mani’s filing for emotional distress and sanctioned Mani. In 2018, after Mani still failed to comply, the City moved for appointment of a receiver. Mani presented no evidence challenging the appointment of a receiver in the receivership hearing. He only asked for more time to remedy the violations, which the court summarily denied, issuing the order for a receiver.

Now, Mani appeals from this order with no legal support, only claiming a receiver is too drastic a remedy and that he is willing to comply with the permanent injunction. Mani has had eight years to show his willingness to remedy the violations on his property and has not done so. The trial court did not abuse its discretion by appointing a receiver.

DISPOSITION

The judgment is affirmed.

Siggins, P. J.

WE CONCUR:

Petrou, J.

Wick, J.*

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* Judge of the Superior Court of Sonoma County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.